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Part III

Department of Transportation

Coast Guard

Safety Orientation of Passengers

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 26, 78 and 185

[CGD 78-009]

Safety Orientation of Passengers

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: These regulations require the operators of small passenger carrying vessels to conduct a safety orientation for all passengers before getting the vessel underway. These regulations afford all passengers the opportunity to be acquainted with procedures to follow in the event of an emergency and the stowage locations for and proper use of lifesaving equipment.

EFFECTIVE DATE: 1 April 1980.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Kenneth A. Rock, Office of Merchant Marine Safety, Room 2612, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, 202-426-2183.

SUPPLEMENTARY INFORMATION: On 29 June 1978 the Coast Guard published a proposed rule (43 FR 28426) concerning these amendments. Interested persons were given until 14 August 1978 to submit comments. A total of 39 persons submitted written comments. A significant amount of duplication was noted. Comments were submitted by private individuals, small passenger vessel owners and operators, industry associations, Federal and State Government agencies. Each member of the National Boating Safety Advisory Council (NBSAC) was individually invited to comment on these regulations to the extent applicable to vessels carrying 6 or fewer passengers for hire by letter dated 28 June 1978. All comments received from NBSAC members were incorporated into the docket and considered in development of the final rule.

The final rule has been evaluated in accordance with DOT "Regulatory Policies and Procedures," 44 FR 11033 (February 26, 1979). A copy of the final evaluation may be obtained from the Commandant (G-CMC/TP24), U.S. Coast Guard, Washington, D.C. 20593, 202-426-1477.

Drafting Information

The principal persons involved in drafting this rule are LCDR Kenneth A. Rock, Project Manager, Office of Merchant Marine Safety and Michael N. Mervin, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

All changes to the proposed regulations have been made to improve clarity without changing the substance of the regulations. The changes reflect and are a direct result of comments received and subsequent Coast Guard review of the proposal.

General Comments

Nine comments favored the proposal as written while four comments objected to the proposal offhand without substantive comment.

Nine comments requested that ferry vessels be excluded from compliance. These comments were based on an apparent misunderstanding that the only safety orientation format acceptable to the Coast Guard would be to muster all passengers for an announcement and demonstration conducted by a crewmember. Although the "airline flight attendant" method of safety orientation can be used to meet the intent of this regulation, a suitable recorded announcement supplemented with adequate notice and placards and in some cases notice and placards only will suffice. Each operator may determine the method of safety orientation which best fits the operation.

Four comments suggested that the wording of the proposal subjected the vessel operator to unnecessary liability by making the operator responsible for ensuring that each passenger is fully informed regarding every aspect covered in the safety orientation. The Coast Guard agrees that such liability was inadvertently inferred and the regulation has been reworded. The intent of this rule is to require each operator to provide a thorough orientation which accords each passenger an opportunity to become familiar with that vessel's safety equipment and layout. However, if a passenger ignores the orientation, the operator should not be held accountable.

Five comments alleged that a safety orientation would create fear and panic among passenges. Additionally, one comment questioned the need on the premise that every passenger "automatically accepts a risk" just by taking a ride as a passenger. The Coast Guard disagrees on both counts. Although a certain amount of risk may exist for every passenger aboard a vessel the Coast Guard is committed to reducing that risk and ensuring the highest practicable level of safety of life and property at sea. The Coast Guard therefore, desires to minimize as many identifiable hazards to vessels, crews, and passengers as practicable. The Coast Guard is convinced that is is vital that each passenger be provided with basic information regarding emergency procedures, as well as the location of lifesaving devices and how to don and adjust them, in advance of an emergency. Fear and panic are more logically a result of lack of information about, familiarity with, and understanding of vessel operation and available equipment.

Five comments recommended that various types of vessel operations be excluded from compliance with the safety orientation requirements. Specifically, exclusions were requested for charter vessels operating two or more times daily, all river and harbor operations under 100 GT, rental boat livery operations, yacht brokers during vessel demonstrations and yacht club launch operations. The Coast Guard agrees that the limited scope of tender service at yacht clubs and marinas coupled with the small size of vessels employed to carry six or less passengers makes compliance with these rules impracticable and unnecessary. Therefore, wording has been added to exclude yacht club tender service operations carrying six or fewer passengers. Similarly, a passenger on a vessel being demonstrated by a yacht broker is normally on the vessel to become totally familiar with that vessel's equipment and characteristics. The Coast Guard therefore agrees that providing an emergency checkoff list and conducting a safety orientation is unnecessary and wording has been added to the rule to exclude yacht broker operations conducted concomitant to the sale of a vessel.

However, the objection that such an orientation would result in an unreasonable burden for vessels operating two or more times daily is unfounded. Numerous orientation options allow sufficient variety to provide compatability with all small passenger vessel operations. Likewise, the request that all vessels of under 100 GT operating on rivers and harbors be excluded is not concurred with. Often the increased vessel traffic encountered on these routes and the frequency of trips (i.e. ferryboats and sightseeing vessels) make a safety orientation and posting of an emergency checkoff list most important. Therefore, no exclusions are granted for these operations.

The request that rental boat livery operations be excluded from compliance with these regulations is ordinarily not germane. Rental boat livery operations normally constitute a bareboat charter agreement and there is no identifiable

"licensed operator" nor are there any "passengers for hire" relationships present. These regulations are therefore not applicable. In the event that a licensed operator is furnished and the renters are "passengers for hire" the rule is properly applicable since the passengers are likely to be unfamiliar with the vessel, its operation, and its equipment.

In the case of small, multi-stop sightseeing or cruise boats and round-trip ferry operations, the safety orientation is required only subsequent to the initial point of passenger embarkation for each trip.

One comment requested that all whitewater rafts be excluded from the emergency checkoff list posting requirements. The Coast Guard disagrees that a blanket exclusion would serve the best interests of safety in view of the numerous types of vessels and operational practices in use in the river running industry. However, § 26.03–2(c) and § 185.25(c) provide for an exclusion from the checkoff list requirements whenever it is determined that the operation of any vessel does not present the hazards listed on the checkoff list or when a vessel has no suitable mounting surface in a conspicuous, continuously accessible place. Additionally, it is intended that every commercial river running operation comply with the regulations requiring a thorough safety orientation prior to each trip. OCMI's will review each river running operation and ensure that the safety orientation provided satisfies the intent of these regulations and is compatible with vessel construction, configuration and operation.

Three comments requested that the Coast Guard provide standardized placards to all operators. The Coast Guard rejects this idea. Placards, when used, must reflect each vessel's unique design, stowage locations, and specific safety equipment instructions. Some acceptable placards are currently available from safety equipment manufacturers.

One comment suggested that some uninspected small passenger vessels subject to 46 CFR 26.03–2 may not be radiotelephone equipped. Therefore, the phrase "if radiotelephone equipped" has been added.

Eight comments requested that ferry operations be excluded from these requirements because of insufficient time to conduct such an orientation. The availability of a passive orientation procedure which affords the passenger the opportunity to be informed while not delaying passenger embarkation and debarkation makes such an exclusion unwarrented.

Finally, one comment recognized that the proposal is sound but requested that the rule be published as an "industry advisory" in lieu of a regulation. The Coast Guard disagrees. A regulation is considered desirable to ensure uniform industry wide implementation.

Accordingly, Chapter I of Title 46 of the Code of Federal Regulations is amended as follows:

PART 26—OPERATIONS

1. By adding new §§ 26.03–1 and 26.03–2 to Part 26 to read as follows:

§ 26.03–1 Safety orientation.

(a) Before getting underway in any vessel carrying 6 or fewer passengers for hire, the operator in charge shall ensure that suitable public announcements, instructive placards or both are provided in a manner which affords all passengers the opportunity to become acquainted with:

(1) Stowage locations of life preservers;

(2) Proper method of donning and adjusting life preservers of the type(s) carried on the vessel;

(3) The type and location of all lifesaving devices carried on the vessel; and

(4) The location and contents of the "Emergency Checkoff List" required by § 26.03–2.

(b) Vessels subject to this subpart engaged in tender service at yacht clubs and marinas, and vessels being demonstrated for a potential purchaser by a yacht broker, are excluded from the requirements of § 26.03–1 and § 26.03–2.

§ 26.03–2 Emergency instructions.

(a) The operator in charge of each vessel carrying 6 or fewer passengers for hire shall ensure than an emergency checkoff list is posted in a conspicuous, continuously accessible place to serve as a notice to the passengers and a reminder to the crew of precautionary measures which may be necessary in the event of an emergency situation.

(b) Except where any part of the emergency instructions are deemed unnecessary by the Officer in Charge, Marine Inspection, the emergency checkoff list must contain not less than the applicable portions of the sample emergency checkoff list which follows:

Sample Emergency Checkoff List

Measures to be considered in the event of:

(a) *Rough weather at sea or crossing hazardous bars.*

- ☐ All weathertight and watertight doors, hatches and airports closed to prevent taking water aboard.
- ☐ Bilges kept dry to prevent loss of stability.
- ☐ Passengers seated and evenly distributed.
- ☐ All passengers wearing life preservers in conditions of very rough seas or if about to cross a bar under hazardous conditions.
- ☐ An international distress call and a call to the Coast Guard over radiotelephone made if assistance is needed (if radiotelephone equipped).

(b) *Man overboard.*

- ☐ Ring buoy thrown overboard as close to the victim as possible.
- ☐ Lookout posted to keep the victim in sight.
- ☐ Crewmember, wearing a life preserver and lifeline, standing by ready to jump into the water to assist the victim back aboard.
- ☐ Coast Guard and all vessels in the vicinity notified by radiotelephone (if radiotelephone equipped).
- ☐ Search continued until after radiotelephone consultation with the Coast Guard, if at all possible.

(c) *Fire at Sea.*

- ☐ Air supply to the fire cut off by closing hatches, ports, doors, and ventilators, etc.
- ☐ Portable extinguishers discharged at the base of the flames of flammable liquid or grease fires or water applied to fires in combustible solids.
- ☐ If fire is in machinery spaces, fuel supply and ventilation shut off and any installed fixed firefighting system discharged.
- ☐ Vessel maneuvered to minimize the effect of wind on the fire.
- ☐ Coast Guard and all vessels in the vicinity notified by radiotelephone of the fire and vessel location (if radiotelephone equipped).
- ☐ Passengers moved away from fire and wearing life preservers.

(c) When in the judgment of the cognizant Officer in Charge, Marine Inspection, the operation of any vessel subject to this section does not present the hazards listed on the emergency checkoff list or when any vessel has no suitable mounting surface, an exclusion from the requirements of § 26.03–2(a) and (b) is granted by letter.

2. By adding the following entries in numerical sequence to the Part 26—*Operations* Table of Contents:

Sec.
26.03–1 Safety orientation.
26.03–2 Emergency instructions.

3. By adding the following references in alphabetical sequence to the index for 46 CFR Subchapter "C"—Uninspected Vessels:

Emergency checkoff list	26.03–2
Safety orientation	26.03–1

(46 USC 1454, 49 CFR 1.46(n)(1))

PART 78—OPERATIONS

4. By amending § 78.17–50(b)(5) of Part 78 to read as follows:

§ 78.17–50 Fire and boat drills.

* * * * *

(b)* * *

(5) The passengers must be encouraged to fully participate in these drills and must be instructed in the proper method of donning and adjusting life preservers of the type carried on the vessel and informed of the life preserver stowage locations.

(46 USC 481, 49 CFR 1.45(a)(2))

PART 185—OPERATIONS

5. By adding new paragraphs (c) and (d) to § 185.25–1 of Part 185 as follows:

§ 185.25–1 Emergency instructions.

* * * * *

(c) When in the judgment of the cognizant Officer in Charge, Marine Inspection, the operation of any vessel subject to this section does not present the hazards listed on the emergency checkoff list or when any vessel has no suitable mounting surface, an exclusion from the requirements of § 185.25–1(a) and (b) is granted by letter.

(b) *Safety orientation.* Before getting underway, the operator in charge of each vessel subject to this subpart shall ensure that suitable public announcements, instructive placards or both are provided in a manner which affords all passengers the opportunity to become acquainted with:

(1) Stowage locations of life preservers;

(2) Proper method of donning and adjusting life preservers of the type(s) carried on the vessel;

(3) The type and location of all lifesaving devices carried on the vessel; and

(4) The location and contents of the "Emergency Checkoff List" required by § 185.25–5.

6. By adding the following reference in alphabetical sequence to the index for 46 CFR Subchapter "T"—Small Passenger Vessels:

Safety orientation..... 185.25–1(c)

(46 USC 390b, 49 USC 1655(b)(1), 49 CFR 1.46(b))

Dated: February 12, 1980.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

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33 ... 8307
216 ... 7262, 9284
451 ... 8624
611 ... 9940
621 ... 10349
652 ... 9939
671 ... 10800
672 ... 9940

Proposed Rules:
Ch. I ... 8675
17 ... 8029, 8030, 10386
20 ... 9028
216 ... 10552
602 ... 8686
611 ... 8030
651 ... 8030
680 ... 8327, 9303
691 ... 8328

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

COMMODITY FUTURES TRADING COMMISSION

3257 1-17-80 / Commission records and information; petitions for confidential treatment*

ENERGY DEPARTMENT

3538 1-17-80 / Loans for small hydroelectric power project feasibility studies and related licensing

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

3574 1-18-80 / Recognition of new sources of ingredient names for cosmetic labeling

TREASURY DEPARTMENT

Customs Service—

3573 1-18-80 / Establishment of port of entry at Owensboro, Ky.

3570 1-18-80 / Fees for vessels in foreign and domestic trades

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing February 14, 1980